

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA  
SCRANTON DIVISION**

INTERMETRO INDUSTRIES	)	
CORPORATION, a Delaware	)	
corporation,	)	Civil Action Group: 3:13-cv-02854-RDM
	)	
Plaintiff,	)	(Judge Robert D. Mariani)
	)	
v.	)	
	)	
ENOVATE MEDICAL, LLC, a	)	
Delaware limited liability company	)	
	)	
Defendant.	)	
	)	

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**PLAINTIFF INTERMETRO INDUSTRIES CORPORATION'S  
MOTION TO DISMISS ENOVATE'S COUNTERCLAIMS III and IV AND  
ENOVATE'S THIRD AFFIRMATIVE DEFENSE  
PURSUANT TO FED. R. CIV. P. 12(b)(6)**

Plaintiff/Counter-Defendant InterMetro Industries Corporation, by and through its undersigned attorneys, does hereby move this Court for an Order dismissing Defendant/Counter-Claimant Enovate Medical, LLC's Counterclaims III and IV and Third Affirmative Defense, all of which are directed to alleged inequitable conduct by the original named inventors. Enovate's pleading does not satisfy the rigorous requirements for pleading inequitable conduct.

A brief in support of this motion is being filed concurrently herewith.

**Respectfully submitted,**

By: /s/ Glenn E. Forbis  
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Dated: March 24, 2016

**CERTIFICATE OF NONCONCURRENCE**

On March 24, 2016, counsel for Plaintiff InterMetro Industries Corporation sought the concurrence of counsel for Defendant Enovate Medical, LLC in the foregoing motion. Plaintiff has not concurred in the relief sought in the motion.

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**CERTIFICATE OF SERVICE**

I hereby certify that on 24<sup>th</sup> day of March 2016, the foregoing was filed electronically with the Clerk of the Court using the CM/ECF system. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

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